

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2007-0861-WQ-E **TCEQ ID:** RN104016746 **CASE NO.:** 33699  
**RESPONDENT NAME:** Bobby G. Rowland Homes, Inc. dba Rowland & Donnell Homes

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Rowland &amp; Donnell Homes, Southwest Parkway to Gregg Road to Van Dorn Drive west of the intersection of Gregg Road and Van Dorn Drive, Wichita Falls, Wichita County</p> <p><b>TYPE OF OPERATION:</b> Residential construction site</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> Two complaints were received on March 19, 2007. The complainants alleged that trucks traveling to and from construction sites were leaving mud on Sandy Hill Boulevard. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> Complaints were received, but the complainants have not expressed the desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on September 17, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> <b>TCEQ Attorney/SEP Coordinator:</b> None <b>TCEQ Enforcement Coordinator:</b> Mr. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 <b>Respondent:</b> Mr. Bobby Rowland, President, Bobby G. Rowland Homes, Inc., P.O. Box 4435, Wichita Falls, Texas 76308 <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2007-0861-WQ-E

## VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> March 19, 2007</p> <p><b>Date of Investigation Relating to this Case:</b> April 10, 2007</p> <p><b>Date of NOE Relating to this Case:</b> May 30, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Two violations were documented.</p> <p><b>WATER</b></p> <p>1) Failure to properly install and maintain structural controls according to the manufacturer's or designers specifications, develop control measures at the construction site to limit off-site transport of concrete washout materials and install storm water structural control at down slope boundaries of the construction site to divert flows away from exposed soils, to limit the contact of runoff with disturbed areas, or to lessen off-site transport of eroded soils. Specifically, silt fences were not installed and concrete washout material was not contained on the construction at 4806 Libby Drive in Wichita Falls. It was also noted that the storm water structural controls were not installed on the construction at 3 Jessica Court in Wichita Falls [30 TEX. ADMIN. CODE § 281.25(a)(4), 40 CODE OF FEDERAL REGULATIONS § 122.26(a) and TPDES General Permit No. TXR150000 Part III Section F(2)(a)(ii), (v) and (3)(b)].</p> <p>2) Failure to remove accumulations of sediment that had escaped from the construction site [30 TEX. ADMIN. CODE § 281.25(a)(4), 40 CODE OF FEDERAL REGULATIONS § 122.26(a) and TPDES General Permit No. TXR150000 Part III Section F(2)(a)(iv)].</p>	<p><b>Total Assessed:</b> \$1,625</p> <p><b>Total Deferred:</b> \$325  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,300</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that, by April 16, 2007, the Respondent implemented the following corrective measures at the Site:</p> <p>a. Properly installed and began maintaining a silt fence on the construction site located at 4806 Libby Drive;</p> <p>b. Removed concrete washout material from the site located at 4806 Libby Drive;</p> <p>c. Removed sediments from the site located at 4806 Libby Drive; and</p> <p>d. Installed a silt fence and hay bales at the construction site located at 3 Jessica Court.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

<b>DATES</b>	<b>Assigned</b>	29-May-2007	<b>Screening</b>	4-Jun-2007	<b>EPA Due</b>	
	<b>PCW</b>	4-Jun-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Bobby G. Rowland Homes, Inc. dba Rowland & Donnell Homes
<b>Reg. Ent. Ref. No.</b>	RN104016746
<b>Facility/Site Region</b>	3-Abilene
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	33699	<b>No. of Violations</b>	2
<b>Docket No.</b>	2007-0861-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Rajesh Acharya
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$2,500**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **-10% Enhancement** **Subtotals 2, 3, & 7** **-\$250**

**Notes** Reduction for High Performer classification.

**Culpability** **No** **0% Enhancement** **Subtotal 4** **\$0**

**Notes** The respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **25% Reduction** **Subtotal 5** **\$625**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

**Notes** The respondent came into compliance on April 16, 2007.

**Total EB Amounts** **\$9** **0% Enhancement\*** **Subtotal 6** **\$0**  
**Approx. Cost of Compliance** **\$7,500** **\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$1,625**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount** **\$1,625**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$1,625**

**DEFERRAL** **20% Reduction** **Adjustment** **-\$325**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$1,300**

Screening Date 4-Jun-2007

Docket No. 2007-0861-WQ-E

PCW

Respondent Bobby G. Rowland Homes, Inc. dba Rowland &amp; Donnell I

Policy Revision 2 (September 2002)

Case ID No. 33699

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN104016746

Media [Statute] Water Quality

Enf. Coordinator Rajesh Acharya

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Reduction for High Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) -10%

Screening Date 4-Jun-2007

Docket No. 2007-0861-WQ-E

PCW

Respondent Bobby G. Rowland Homes, Inc. dba Rowland &amp; Donnell Homes

Policy Revision 2 (September 2002)

Case ID No. 33699

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN104016746

Media [Statute] Water Quality

Enf. Coordinator Rajesh Acharya

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4), 40 Code of Federal Regulations § 122.26(a) and TPDES General Permit No. TXR150000 Part III Section F(2)(a)(ii), (v) and (3)(b)

## Violation Description

Failed to properly install and maintain structural controls according to the manufacturer's or designers specifications, develop control measures at the construction site to limit off site transport of concrete washout materials and install storm water structural control at down slope boundaries of the construction site to divert flows away from exposed soils, to limit the contact of runoff with disturbed areas, or to lessen off-site transport of eroded soils. Specifically, silt fences were not installed and concrete washout material was not contained on the construction at 4806 Libby Drive in Wichita Falls. It was also noted that the storm water structural controls were not installed on the construction at 3 Jessica Court in Wichita Falls.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

## &gt;&gt;Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 2

6 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events (one per location) are recommended based on the investigation date of April 10, 2007 to the compliance date of April 16, 2007.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,300

This violation Final Assessed Penalty (adjusted for limits) \$1,300

**Economic Benefit Worksheet****Respondent** Bobby G. Rowland Homes, Inc. dba Rowland & Donnell Homes**Case ID No.** 33699**Reg. Ent. Reference No.** RN104016746**Media** Water Quality**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$7,000	10-Apr-2007	16-Apr-2007	0.0	\$0	\$8	\$8
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to install and maintain silt fence and remove accumulated sediments. Date Required is the investigation date. Final Date is the date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$7,000

**TOTAL**

\$8

<b>Screening Date</b> 4-Jun-2007	<b>Docket No.</b> 2007-0861-WQ-E	<b>PCW</b>
<b>Respondent</b> Bobby G. Rowland Homes, Inc. dba Rowland & Donnell Hom	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 33699	<i>PCW Revision May 25, 2007</i>	
<b>Reg. Ent. Reference No.</b> RN104016746		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Rajesh Acharya		
<b>Violation Number</b>	<div style="border: 1px solid black; text-align: center;">2</div>	
<b>Rule Cite(s)</b>	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 281.25(a)(4), 40 Code of Federal Regulations § 122.26(a) and TPDES General Permit No. TXR150000 Part III Section F(2)(a)(iv)</div>	
<b>Violation Description</b>	<div style="border: 1px solid black; padding: 5px;">Failed to remove accumulations of sediment that had escaped from the construction site.</div>	
<b>Base Penalty</b>		<div style="border: 1px solid black; text-align: center;">\$10,000</div>

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; text-align: center;">5%</div>
Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>		

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<b>Percent</b> <div style="border: 1px solid black; text-align: center;">0%</div>

<b>Matrix Notes</b>	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.
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<b>Adjustment</b>	<div style="border: 1px solid black; text-align: center;">\$9,500</div>
	<div style="border: 1px solid black; text-align: center;">\$500</div>

**Violation Events**

Number of Violation Events	<div style="border: 1px solid black; text-align: center;">1</div>	6	Number of violation days
----------------------------	---	---	--------------------------

<i>mark only one with an x</i>		daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<b>Violation Base Penalty</b> <div style="border: 1px solid black; text-align: center;">\$500</div>
		monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
		quarterly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
		semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
		annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
		single event	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>	

One single event is recommended based on the investigation date of April 10, 2007.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <div style="border: 1px solid black; text-align: center;">\$1</div>	<b>Violation Final Penalty Total</b> <div style="border: 1px solid black; text-align: center;">\$325</div>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <div style="border: 1px solid black; text-align: center;">\$325</div>	

**Economic Benefit Worksheet****Respondent** Bobby G. Rowland Homes, Inc. dba Rowland & Donnell Homes**Case ID No.** 33699**Reg. Ent. Reference No.** RN104016746**Media** Water Quality**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saver**   **Onetime Costs**   **EB Amount**  
**Item Description** No commas or \$

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$500	10-Apr-2007	16-Apr-2007	0.0	\$0	\$1	\$1
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to clean up all sediment escaping from the construction site. Date Required is the investigation date. Final Date is the date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1



# Compliance History

Customer/Respondent/Owner-Operator:	CN602500555	Bobby G. Rowland Homes, Inc.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN104016746	ROWLAND & DONNELL HOMES	Classification: HIGH	Site Rating: 0.00
ID Number(s):	STORMWATER	PERMIT	TXR152240	
Location:	ON SOUTHWEST PARKWAY TO GREGG ROAD TO VAN DORN DRIVE WEST OF INTERSECTION OF GREGG RD & VAN DORN DRIVE, WICHITA FALLS, TX		Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	May 30, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 30, 2002 to May 30, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Rajesh Acharya		Phone:	(512) 239-0577

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No  |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

## Components (Multimedia) for the Site :

- |                        |   |
|------------------------|---|
| A.                     | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. |
|                        | N/A   |
| B.                     | Any criminal convictions of the state of Texas and the federal government.  |
|                        | N/A   |
| C.                     | Chronic excessive emissions events.   |
|                        | N/A   |
| D.                     | The approval dates of investigations. (CCEDS Inv. Track. No.)   |
|                        | 1 04/26/2005 (378988)   |
|                        | 2 05/25/2007 (561790)   |
| E.                     | Written notices of violations (NOV). (CCEDS Inv. Track. No.)  |
|                        | N/A   |
| F.                     | Environmental audits.   |
|                        | N/A   |
| G.                     | Type of environmental management systems (EMSs).  |
|                        | N/A   |
| H.                     | Voluntary on-site compliance assessment dates.  |
|                        | N/A   |
| I.                     | Participation in a voluntary pollution reduction program.   |
|                        | N/A   |
| J.                     | Early compliance.   |
|                        | N/A   |
| Sites Outside of Texas |   |
|                        | N/A   |



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
BOBBY G. ROWLAND HOMES, INC.  
DBA ROWLAND & DONNELL  
HOMES  
RN104016746**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0861-WQ-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Bobby G. Rowland Homes, Inc. dba Rowland & Donnell Homes ("Rowland Homes") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Rowland Homes appear before the Commission and together stipulate that:

1. Rowland Homes operates a residential construction site located at Southwest Parkway to Gregg Road to Van Dorn Drive west of the intersection of Gregg Road and Van Dorn Drive in Wichita Falls, Wichita County, Texas (the "Site").
2. Rowland Homes has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Rowland Homes agree that the Commission has jurisdiction to enter this Agreed Order, and that Rowland Homes is subject to the Commission's jurisdiction.
4. Rowland Homes received notice of the violations alleged in Section II ("Allegations") on or about June 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Rowland Homes of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of One Thousand Six Hundred Twenty-Five Dollars (\$1,625) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Rowland Homes has paid One Thousand Three Hundred Dollars (\$1,300) of the administrative penalty and Three Hundred Twenty-Five Dollars (\$325) is deferred contingent upon Rowland Homes' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Rowland Homes fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Rowland Homes to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Rowland Homes have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that, by April 16, 2007, Rowland Homes implemented the following corrective measures at the Site:
  - a. Properly installed and began maintaining a silt fence on the construction site located at 4806 Libby Drive;
  - b. Removed concrete washout material from the site located at 4806 Libby Drive;
  - c. Removed sediments from the site located at 4806 Libby Drive; and
  - d. Installed a silt fence and hay bales at the construction site located at 3 Jessica Court.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Rowland Homes has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As an operator of the Site, Rowland Homes is alleged to have:

1. Failed to properly install and maintain structural controls according to the manufacturer's or designers specifications, develop control measures at the construction site to limit off-site transport of concrete washout materials and install storm water structural control at down slope



boundaries of the construction site to divert flows away from exposed soils, to limit the contact of runoff with disturbed areas, or to lessen off-site transport of eroded soils, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), 40 CODE OF FEDERAL REGULATIONS § 122.26(a) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000 Part III Section F(2)(a)(ii), (v) and 3(b), as documented during an investigation conducted on April 10, 2007. Specifically, silt fences were not installed and concrete washout material was not contained on the construction at 4806 Libby Drive, Wichita Falls, Wichita County, Texas. It was also noted that the storm water structural controls were not installed on the construction at 3 Jessica Court, Wichita Falls, Wichita County, Texas.

2. Failed to remove accumulations of sediment that had escaped from the construction site, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), 40 CODE OF FEDERAL REGULATIONS § 122.26(a) and TPDES General Permit No. TXR150000 Part III Section F(2)(a)(iv), as documented during an investigation conducted on April 10, 2007.

### III. DENIALS

Rowland Homes generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Rowland Homes pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Rowland Homes' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Bobby G. Rowland Homes, Inc. dba Rowland & Donnell Homes, Docket No. 2007-0861-WQ-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Rowland Homes. Rowland Homes is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. If Rowland Homes fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Rowland Homes' failure to comply is not a violation of this Agreed Order. Rowland Homes shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Rowland Homes shall notify the Executive Director within seven days after Rowland Homes becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.





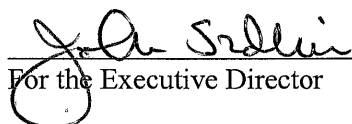
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Rowland Homes shall be made in writing to the Executive Director. Extensions are not effective until Rowland Homes receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Rowland Homes in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Rowland Homes, or three days after the date on which the Commission mails notice of the Order to Rowland Homes, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

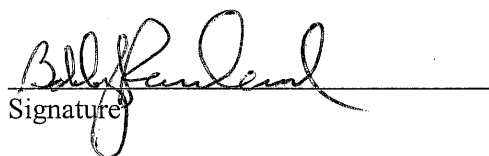
9/7/07  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

July 11, 2007  
\_\_\_\_\_  
Date

Bobby G. Rowland  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Bobby G. Rowland Homes, Inc. dba Rowland & Donnell Homes

President  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

